

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ON DEMAND DIRECT RESPONSE, LLC
AND ON DEMAND DIRECT RESPONSE
III, LLC,

Plaintiffs,

v.

SHANA LEE MCCART-POLLACK D/B/A
LOL BUDDIES ENTERPRISES,

Defendants.

Case No. 2:15-cv-01576-MMD-VCF

ORDER ADOPTING AND ACCEPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
CAM FERENBACH

SHANA LEE MCART-POLLAK,

Defendant/Counter Claimant,

v.

ON DEMAND DIRECT RESPONSE LLC,
A Delaware company; ON DEMAND
DIRECT RESPONSE III, LLC, a Delaware
Company,

Plaintiff/Counter-Defendants.

SHANA LEE MCCART-POLLAK,

Defendant/Third Party Plaintiff,

v.

KEVIN HARRINGTON, an individual; AS
SEEN ON TV, INC., a Florida company;
SPIRAL TOYS LLC, a California company;
MARK MEYERS, an individual; DRAGON-I
TOYS LTD, California company; JAT AT
PLAY INTERNATIONAL, a New York
company; DIGITAL TARGET
MARKETING, a Florida company;
HUTTON MILLER, a Florida company;
ECHO FACTORY, a California company;
DOES I-S; ROE Business Entities I-X,

Third-Party Defendants.

1 Before the Court is the Report and Recommendation of United States Magistrate
2 Judge Cam Ferenbach (ECF No. 161) (“R&R”), submitted on April 28, 2016, relating to
3 the Court’s February 5, 2016, order requiring Plaintiffs On Demand Direct Response,
4 LLC an On Demand Direct Response III, LLC (“Plaintiffs”) to retain counsel by March 7,
5 2016. (See ECF No. 99.) The R&R recommends dismissal of Plaintiffs’ claims. (ECF
6 No. 161.) Plaintiffs had until May 15, 2016, to file objections. (*Id.*) To date, no objection
7 to the R&R has been filed.

8 This Court “may accept, reject, or modify, in whole or in part, the findings or
9 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
10 timely objects to a magistrate judge’s report and recommendation, then the court is
11 required to “make a *de novo* determination of those portions of the [report and
12 recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails
13 to object, however, the court is not required to conduct “any review at all . . . of any issue
14 that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
15 Indeed, the Ninth Circuit has recognized that a district court is not required to review a
16 magistrate judge’s report and recommendation where no objections have been filed. See
17 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard
18 of review employed by the district court when reviewing a report and recommendation to
19 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
20 1226 (D. Ariz. 2003) (reading the Ninth Circuit’s decision in *Reyna-Tapia* as adopting the
21 view that district courts are not required to review “any issue that is not the subject of an
22 objection.”). Thus, if there is no objection to a magistrate judge’s recommendation, then
23 the court may accept the R&R without review. See, e.g., *Johnstone*, 263 F. Supp. 2d at
24 1226 (accepting, without review, a magistrate judge’s recommendation to which no
25 objection was filed).

26 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
27 determine whether to adopt Magistrate Judge Ferenbach’s R&R. Upon reviewing the
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1 R&R and the records in this case, this Court finds good cause to adopt the Magistrate
2 Judge's R&R in full.

3 It is therefore ordered, adjudged and decreed that the Report and
4 Recommendation of Magistrate Judge Cam Ferenbach (ECF No.161) is accepted and
5 adopted in its entirety.

6 It is further ordered that Plaintiffs' claims against Defendant Shana Lee McCart-
7 Pollak are dismissed with prejudice for failure to prosecute.

8 It is further ordered that Defendant/Third Party Plaintiff Shana Lee McCart-
9 Pollak's motion to dismiss (ECF No. 167) is denied as moot.

10 DATED THIS 24th day of May 2016.

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13 MIRANDA M. DU
14 UNITED STATES DISTRICT JUDGE
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